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LEE W. SHUBERT
ADMITTED IN D.C. & VA

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January 24, 1995

The Honorable John M. Frysiak, and
The Honorable Edward Luton
Federal Communications Commission
2000 M Street, NW
Washington, DC 20554



RE: File No. BPH-911115MG
Channel 265A, Calistoga, CA

Dear Messrs. Frysiak & Luton:

Transmitted herewith, on behalf of Moonbeam, Inc., are an original and six copies of its First Supplement of Moonbeam, Inc., to Joint Request for Approval of Settlement Agreement.

Should further information be required regarding this matter, kindly communicate directly with this office.

Very truly yours,

Lee W. Shubert

Enclosures (6)

LWS/blr

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Federal Communications Commission

Washington, D.C. 20554

In re Applications Of) **Docket No. MM 93-42**
)
 MOONBEAM, INC.) File No. BPH-911115MG
)
 GARY E. WILLSON) File No. BPH-911115MO
)
 For a Construction Permit for a)
 New FM Station on Channel)
 265A in Calistoga, California)

RECEIVED

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To: The Honorable John M. Frysiak, and
 The Honorable Edward Luton
 Administrative Law Judge

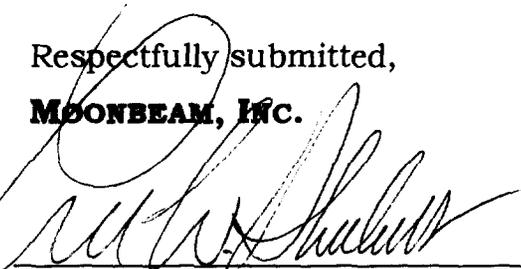
FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF SECRETARY

First Supplement of Moonbeam, Inc., to Joint Request for Approval of Settlement Agreement

Moonbeam, Inc. ("Moonbeam") a parties to the above-referenced proceeding, hereby supplements the Joint Request for Approval of Settlement Agreement that was submitted for consideration on January 13, 1995. This supplement consists of the Affidavit of Non Consideration of Moonbeam, Inc., executed by the company's president, Mary F. Constant.

Respectfully submitted,

MOONBEAM, INC.

By: 

Lee W. Shubert
 Its Attorneys

HALEY BADER & POTTS P.L.C.
 4350 North Fairfax Drive
 Suite 900
 Arlington, VA 22203-1633
 Tel: 703/841-0606
 Fax: 703/841-2345

January 24, 1995

DECLARATION

I, Mary F. Constant, do hereby state and certify as follows:

1. I am the President of Moonbeam, Inc., ("Moonbeam"). Moonbeam is a mutually exclusive applicant for a new FM broadcast station on Channel 265A in Calistoga, California.

2. Moonbeam has entered into a Settlement Agreement with the sole remaining applicant, Gary E. Willson ("Willson"), which is subject to Federal Communications Commission approval. In accordance with the Settlement Agreement, Moonbeam has agreed to pay Willson as follows:

A. In the aggregate, One Hundred Twenty Thousand and No/100 Dollars (\$120,000.00) in return for dismissal of Willson's application, and as reimbursement for Willson's legitimate and prudent expenses incurred in preparing, filing, prosecuting his application. The payment is to be made on the fifth (5th) business day from the date that the Commission's order granting Moonbeam's application and dismissing Willson's application becomes a Final Order. For the purposes of the Agreement, Final Order or Orders means actions taken by the Commission, or its delegatee, for which no judicial or administrative reconsideration or appeal is pending and for which the time for filing such judicial or administrative reconsideration or appeal has expired;

B. Additionally Moonbeam has agreed to enter into a facilitation Agreement with Willson, substantially in accordance with the terms and conditions of the facilitation Agreement appended hereto as **Attachment No. 1**. The consideration for that Agreement shall be One Hundred Forty-Three Thousand and No/100 Dollars (\$143,000.00), to be paid by Moonbeam to Willson over a term of two years. Moonbeam is to provide reasonable security agreeable to Willson for the payments due in connection with the Agreement.

3. The payments to Willson are subject to the approval of the Federal Communications Commission.

4. Approval of the Settlement Agreement is in the public interest. It will eliminate the mutual exclusivity between the applicants and clear the way for a grant of Moonbeam's application without the need for a protracted comparative hearing. By obviating the need for a lengthy hearing, material savings of time, effort and resources will be realized by both the Commission and the settling parties. Approval of the Settlement Agreement and the grant of Moonbeam's application will also expedite the inauguration of a new FM

broadcast service to the residents of Calistoga, California and its surrounding area.

5. Moonbeam's application was not filed for the purpose of reaching or carrying out the settlement which has now been achieved between Moonbeam and Willson. Neither Moonbeam nor any of its principals has received or been promised any money or other consideration other than the dismissal of Willson's application as described in the Settlement Agreement. Neither Moonbeam nor any of its principals has promised or paid Willson any money or other consideration for the dismissal of Willson's application, except as described in the Settlement Agreement. There are no other agreements, oral or otherwise, between the Moonbeam and Willson regarding the settlement of this proceeding.

6. As the President of Moonbeam, I certify that neither the applicant nor any party holding an attributable interest in Moonbeam is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. §862.

7. I have read the foregoing, consisting of seven numbered paragraphs and declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge and belief.

MOONBEAM, INC.

January 23, 1995

Dated



Mary F. Constant, President

CERTIFICATE OF SERVICE

I, Barbara L. Rascon, a secretary in the law offices of Haley Bader & Potts P.L.C., hereby certify that I have on this 24th day of January 1995, sent copies of the foregoing "**FIRST SUPPLEMENT OF MOONBEAM, INC., TO JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT**", by first-class, United States mail, postage prepaid, to the following:

*The Honorable John M. Frysiak
Administrative Law Judge
Federal Communications Commission
2000 L Street, NW, Room 223
Washington, DC 20554

*The Honorable Edward Luton
Administrative Law Judge
Federal Communications Commission
2000 L Street, NW, Room 225
Washington, DC 20554

*Robert Zauner, Esq.
Federal Communications Commission
2025 M Street, NW, Room 7212
Washington, DC 20554

A. Wray Fitch III, Esq.
Gammon & Grange
8280 Greensboro Drive
Seventh Floor
McLean, VA 22102-3807
(Counsel to Gary E. Willson)


Barbara L. Rascon

*Hand Delivery